

MediaTitle	Daily Express (KK)		
Date	07 Feb 2014	Language	English
Circulation	30,557	Readership	97,836
Section	Nation	Color	Black/white
Page No	5	ArticleSize	430 cm ²
AdValue	RM 886	PR Value	RM 2,658



Call for stiffer penalties for elected reps who resign without valid reasons

KUALA LUMPUR: Any elected representative who vacates his or her seat without valid reasons should be fined a minimum of RM1 million, bear the cost of holding a by-election and banned from holding public office for life, said political analyst Assoc. Prof. Dr Mohd Azizuddin Mohd Sani.

He said state and federal laws must be amended to impose stiffer penalties in order to prevent any abuse of the democratic process and wastage of taxpayers' money.

The current five-year suspension from contesting in any election was insufficient, and more severe punishments should be introduced to deter similar incidents, the dean of the School of International Studies, Universiti Utara Malaysia said Thursday.

He was asked to comment on this matter following the resignation of Kajang State Assemblyman Lee Chin Cheh, from Parti Keadilan Rakyat (PKR), on Jan 27, forcing a by-election for the seat.

The resignation has come under heavy criticism from many Malaysians, including some opposition party members who regarded the move as a betrayal of the people's mandate.

"The current provisions of the federal and state laws must be amended, by listing down factors such as health, bankruptcy, conviction for any criminal and related offences, as valid reasons, to allow an elected representative to resign.

"Otherwise, these irresponsible MPs or Assemblymen should be punished with monetary penalties or banned for life from public office because they had abused public funds and belittled the people's trust due to their selfish action," Assoc. Prof. Azizuddin said.

He pointed out that they should also bear the cost of holding a by-election as the sudden poll would be seen as a massive burden to the people.

For instance, the Election Commission had to put aside about RM1.6 million to run the Kajang by-election.

In 2008, Datin Seri Dr Wan Azizah Ismail vacated the Permatang Pauh Parliamentary seat to make way for her husband Datuk Seri Anwar Ibrahim to become "Yang Berhormat", in a by-election that cost RM1.5 million.

Last year, the Election Commission spent about RM700,000 on the Kuala Besut by-election on July 24, while another RM1.1 million for Sungai Limau by-election on Nov 4.

Since Kajang is an urban area and rental rates are higher, EC Chairman Tan

Sri Abdul Aziz Mohd Yusof put the estimated cost for the N9 Kajang by-election at about RM1.6 million.

On Wednesday, the EC fixed March 23 for polling for the Kajang state by-election, and set the nomination for March 11. Elaborating further, Assoc. Prof.

Azizuddin said the existing law was clearly not comprehensive as it does not penalise an elected representative who resigns without valid reasons.

According to Article 68 of the Selangor State Constitution, an assemblyman could release his State Assembly membership through a signed letter addressed to the State Speaker.

Under the current law, such as the Federal Constitution (Article 48(6)) and the provision of the state constitution (such as Selangor Constitution - Article 64(5)), a person who resigns his membership of the House of Representatives or Legislative Assembly of the State shall, for a period of five years beginning with the date on which his resignation takes effect, be disqualified from being a member of the House of Representatives or Legislative Assembly of the State.

"Therefore, the much needed amendments in the state and federal constitution is to prevent an MP or state assemblyman to take this resignation without valid reasons lightly and be held responsible for such act.

"This would also make the party more prudent in choosing the candidate in future," said Assoc. Prof. Azizuddin, adding the time had come for the government to take appropriate steps to propose an amendment to the Election Act 1958.

Echoing similar sentiments, another political analyst Dr Sivamurugan Pandian suggested that the EC come up with a guideline, stating which health issues, would allow a MP or state assemblyman to resign from his post.

"A MP can vacate his post if he has a doctor's certificate saying he is suffering from some critical illnesses and diseases such as cancer, terminal illness, paralysis (loss of the use of limbs) and others," he said.

The Associate Professor from Universiti Sains Malaysia (USM) proposed a special court for election cases to be formed, in order to take legal action against those elected representatives, and send them to jail, to provide a lesson to others.

"I think it is time to have town hall

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discussions to forward suggestions to the EC on this issue. The EC should get public feedback on whether the majority would agree to these amendments," he said.

Sivamurugan also suggested that the EC considered allowing the candidate with the second highest vote to replace those who quit without a valid reason.

Meanwhile, former Court of Appeal judge Datuk Mohd Noor Abdullah explained that Article 68 of the Selangor State Constitution gave the right to any holder of public office to resign his post prematurely, without stating his reasons.

"As example, a person appointed to public office may be appointed by the Yang di-Pertuan Agong, or Sultan or even the Menteri Besar. Such holder of office, may at any time vacate his seat. That is his right and he cannot be forced to continue his term until it expires," he said.

Explaining further, he said sometimes an MP or state assemblyman resigned for reasons that fall under Article 48 of the

Federal Constitution, such as being of unsound mind, bankruptcy, and holding an office of profit.

"Automatically, he becomes disqualified and compelled to vacate if he is convicted of an offence and sentenced to jail for a term of not less than one year or to a fine of not less than RM2,000 and has not received a free pardon or voluntarily acquiring citizenship in another country," he added.

Asked whether the Constitution should be amended to compel an MP or Assemblyman to give reason for early resignation, Mohd Noor said:

"It is a matter of policy. But as a rule, such provision in the Constitution gives the right to the holder of the office to resign without stating his reasons."

Last month, Gerakan Youth Chief Tan Keng Liang Tan proposed a monetary penalty of RM100,000 for state assemblymen and RM200,000 for MPs who resign, except for reasons of illness or other conditions rendering them unfit to discharge their duties.